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[Ed. Note.—For other cases, see Insurance, Cent. Dig. § 1720; Dec. Dig. § 665.*]

3. Insurance (§ 646*)—Action—Burden of Proof—Suicide.—In an action on a life policy, the burden of proving that insured died by suicide was on defendant.

[Ed. Note.—For other cases, see Insurance, Cent. Dig. § 1663; Dec. Dig. § 646.*]

4. Insurance (§ 665*)—Actions—Sufficiency of Evidence.—In an action on a life policy, evidence held to sustain a finding that insured's death was accidental, and not by suicide.

[Ed. Note.—For other cases, see Insurance, Cent. Dig. § 1720; Dec. Dig. § 665.*]

5. Trial (§ 140*)—Questions for Jury—Credibility of Witnesses.—The jury are the sole judges of the credibility of the witnesses and the weight of their testimony.

[Ed. Note.—For other cases, see Trial, Cent. Dig. § 334; Dec. Dig. § 140.* 5 Va.-W. Va. Enc. Dig. 354; 13 Id. 974.]

6. Trial (§ 139*)—Question for Jury—Weight of Evidence.—The jury are the sole judges of the weight of the evidence.

[Ed. Note.—For other cases, see Trial, Cent. Dig. §§ 338, 339; Dec. Dig. § 139.* 5 Va.-W. Va. Enc. Dig. 351, et seq.]

7. Insurance (§ 665*)—Actions—Sufficiency of Evidence—Misrepresentations.—In an action on a life policy, where the defense was misrepresentations as to the use of intoxicants, evidence held to sustain a finding that insured had never drank intoxicants to excess when he made the application.

[Ed. Note.—For other cases, see Insurance, Cent. Dig. § 1713; Dec. Dig. § 665.* 9 Va.-W. Va. Enc. Dig. 351, et seq.]

NORFOLK & W. RY. CO. *v.* BRAME.

March 11, 1909.

[63 S. E. 1018.]

1. Appeal and Error (§ 1057*)—Review—Harmless Error—Exclusion of Evidence.—In an action for assault of a passenger by a brakeman, the error, if any, in excluding evidence of plaintiff's intoxication before and at the time he boarded the train, is harmless, where it was fully shown by other evidence that he was intoxicated and so disorderly in conduct as to justify his removal from the train.

[Ed. Note.—For other cases, see Appeal and Error, Cent. Dig. §§ 4194-4199, 4205; Dec. Dig. § 1057.* 1 Va.-W. Va. Enc. Dig. 592, et seq.]

*For other cases see same topic and section NUMBER in Dec. and Am. Digs. 1907 to date, and Reporter Indexes.

2. Assault and Battery (§ 66*)—Provocation—Insulting Words.—Insulting words do not justify an assault and battery, though such words may be shown as extenuating the assault and in mitigation of damages.

[Ed. Note.—For other cases, see Assault and Battery, Cent. Dig. § 95; Dec. Dig. § 66.* 1 Va.-W. Va. Enc. Dig. 739, 743.]

3. Carriers (§ 283*)—Disorderly Passengers—Duty of Carrier.—Trainmen have the right to remove a disorderly passenger to such safe and convenient place as will prevent annoyance to other passengers or trainmen, to stop a train and eject a disorderly passenger therefrom, employing only such force as may be necessary in doing so, and to overcome any resistance which may be made by such disorderly passenger; but, if in so doing the trainmen commit unnecessary violence, the carrier is liable.

[Ed. Note.—For other cases, see Carriers, Cent. Dig. § 1123; Dec. Dig. § 283.* 2 Va.-W. Va. Enc. Dig. 695, 711.]

4. Carriers (§ 283*)—Assault on Passenger.—Where a brakeman without justification assaulted and injured a disorderly passenger after the latter had been removed to another car, the carrier is liable for the assault.

[Ed. Note.—For other cases, see Carriers, Cent. Dig. § 1123; Dec. Dig. § 283.* 2 Va.-W. Va. Enc. Dig. 695.]

5. Carriers (§ 283*)—Assault on Disorderly Passenger.—The movement by a disorderly passenger, who had been removed from the car, of his hand along his side to his hip pocket, did not justify the trainman in assaulting him, where such movement was accompanied by the statement, "I'll see you later."

[Ed. Note.—For other cases, see Carriers, Cent. Dig. § 1123; Dec. Dig. § 283.* 2 Va.-W. Va. Enc. Dig. 695.]

ROLLEY *v.* ROLLEY'S EX'X et al.

March 11, 1909.

[63 S. E. 988.]

Wills (§ 601*)—Construction—Unrestrained Power of Disposition.—Where testator bequeathed all his property to his widow, to be used and enjoyed by her during life or widowhood in such quantities as might be requisite for her comfortable maintenance, with remainder as to such as remained after her death or remarriage to others, the limitation over was void for repugnancy, and the widow was vested with an absolute estate in the personalty and a fee in the realty.

[Ed. Note.—For other cases, see Wills, Cent. Dig. § 1341; Dec. Dig. § 601.* 13 Va.-W. Va. Enc. Dig. 826, et seq.]

*For other cases see same topic and section NUMBER in Dec. and Am. Digs. 1907 to date, and Reporter Indexes.